GOVERNMENT PROPOSED JURY INST. NO. 241

Net Worth Method of Proof

Theory

To establish the understatement of tax for the evasion counts for the years ____, _____, and _____, the government relies upon proof by the so-called net worth method. I should explain that a person's "net worth" is the difference between his assets and his liabilities at any given date. It is the difference between what he [she] owns and what he [she] owes at that time. If a person has more assets at the end of the year than at the beginning of the year and if that person's liabilities remain the same, or decrease, then his [her] net worth has obviously increased. However, only the cost price of the assets is to be considered. Mere increases in market value, which have not been realized, must not be taken into account.

[***In this case, the defendant is married, and is charged with filing false joint income tax returns for the defendant and his [her] spouse. The government accordingly has introduced evidence purporting to reflect their joint net worth and expenditures.***] **1**

The theory of the net worth method of proof is that if the government proves beyond a reasonable doubt that the defendant's net worth, as I have just defined it, has increased during the taxable year, then it may be inferred that the defendant had receipts of either money or property during the year; and if the government satisfies you beyond a reasonable doubt that the defendant had a source of taxable income and that the receipts did not come from nontaxable sources, then you may find that the receipts constituted taxable income to the defendant.

If you also find that the government proved that the defendant spent money on items which did not add to the defendant's net worth at the end of the year (items such as living expenses and taxes), then it may be inferred that those expenditures also came from funds received during the year. Consequently, such expenditures also may be taken into account in determining the amount of the defendant's taxable income for the year, provided they were not deductible expenditures which the defendant was entitled to claim as deductions in computing taxable income on his [her] return.

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In this case the government has undertaken to prove what the defendant was worth at the beginning of each year involved and what he [she] was worth at the end of that year, so as to show that his [her] net worth increased during the year. The government also has introduced other evidence, which, if you believe it, would tend to establish money paid out by the defendant for such non-deductible items as federal income taxes, living expenses, and other personal expenditures.

The government claims that the sum of the defendant's net worth increases and non-deductible expenditures for each year, less adjustments, as shown by the government's evidence, represents the defendant's correct taxable income for that year. The resulting figures are alleged by the government to be a reasonable approximation of what the defendant should have reported on his [her] income tax return.

As I have already told you, an attempt to evade income tax for one year is a separate offense from an attempt to evade the tax for a different year. So you must consider the evidence as to each year separately in arriving at your verdict.

Opening Net Worth

Now, I want to point out to you that, because the net worth method of proving unreported income involves a comparison of the beginning and ending net worth of the defendant in each prosecution year, the result cannot be correct unless the beginning point, or the opening net worth, is reasonably accurate. You will readily appreciate that if the defendant actually owned substantial assets at the beginning point, which the government has failed to include in its computations, apparent increases in net worth during the indictment years may be no more than the disclosure of money previously saved, or the result of a change in the form of other assets, which the defendant owned at the beginning of the year, and which the government did not take into account. For example, a taxpayer might have had a substantial amount of cash on hand (not in a bank) which he [she] [1] had saved up in prior years and which he [she] used to acquire assets or make purchases or other expenditures during a prosecution year. In that case an apparent increase in the defendant's net worth might be only the result of a conversion of prior accumulated cash into tangible property. Similarly, cash on hand accumulated from prior years may have been used to make non-deductible expenditures. You must, therefore, in order to convict, be satisfied that the government's evidence establishes an opening net worth with reasonable certainty as of the beginning of the year.

On the other hand, the government is not required to refute all possible speculation that the defendant might have had assets at the beginning of the year, which the investigation failed to disclose; nor is it necessary for the government to prove the exact cost of the assets owned by the defendant at the starting point, or the precise amount of his [her] undeposited cash on hand. It is enough if the government, although unable to determine the exact cost of the assets owned by the defendant at the beginning of the year, can show beyond a reasonable doubt that such assets were insufficient to account for the subsequent increases in the defendant's net worth.

The burden rests originally upon the government, and the burden remains upon the government, to establish an opening net worth with reasonable certainty.

In this case the government has endeavored to prove that the defendant (and his [her] spouse) **1** did not have any assets at the beginning of the year other than those disclosed as a result of its investigation by [***e.g., tracing the financial and income tax return filing history of the defendant (and his spouse) and by introducing in evidence the defendant's own statements.***] The evidence introduced by the government of the defendant's [***income tax returns and***] financial history in years prior to those named in the indictment may be considered by you only for such light as it may shed on the innocence or guilt of the defendant during the years named in the indictment.

In determining whether or not the opening net worth is reasonably accurate, you may consider whether the government has tracked down all "reasonable leads" or explanations, if any, suggested to the government by the defendant (or his [her] representative) during the investigation which tend to establish the defendant's innocence.

If you are satisfied that any such reasonable leads and explanations have been exhausted or refuted, then this would be evidence which you could consider in determining whether the opening net worth included all of the defendant's assets. Obviously, improbable explanations would not be entitled to as much weight as plausible and reasonable explanations. If you should find that the government's investigation has failed to refute what seem to you to be plausible explanations, then such failure may be considered by you in determining the validity of the opening net worth.

If you find that the government has not established the opening net worth of the defendant to a reasonable certainty as of the beginning of any year named in the indictment, then you will return a verdict of not guilty as to any such count of the indictment.

If you find as to any year that the funds reflected in increased net worth and expenditures are not substantially in excess of the income reported by the defendant on his [her] return for that year, or if you have a reasonable doubt as to whether such funds are substantially in excess of the reported income, then you will return a verdict of not guilty as to any such count of the indictment.

If you find, on the other hand, that the government has established the opening net worth of the defendant to a reasonable certainty as of the beginning of any year named in the indictment, and if you also are convinced beyond a reasonable doubt that the funds reflected in increased net worth and expenditures during such year are substantially in excess of the income reported on the defendant's tax return, then you will proceed to inquire whether the government has established that those funds represented taxable income on which the defendant willfully attempted to evade or defeat the tax.

Current Taxable Income

The burden is on the government to establish beyond a reasonable doubt that the funds reflected in the defendant's increased net worth and non-deductible expenditures arose from taxable, rather than nontaxable sources.

In this connection, I charge you that the federal income tax is levied on gains, profits, and income derived from salaries, wages, or compensation for personal services, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property; also from interest, rent, dividends, securities, or the transaction of any business, legal or illegal, carried on for gain or profit, or gains or profits and income derived from any source whatever.

The law states, however, that certain kinds of funds do not constitute income. Since no income tax is levied on such funds they need not and should not be reported as income. These funds include gifts, inheritances, proceeds of loans, and certain other miscellaneous items which are not pertinent here.

As I have previously stated, the burden rests upon the government to prove beyond a reasonable doubt that the funds reflected in increased net worth and expenditures arose from a taxable source or sources or that the funds did not come from nontaxable sources. In other words, the government must establish either a likely source of income from which you believe the net worth increases and expenditures sprang, or that nontaxable sources of income have been negated as a source of the net worth increases and expenditures.

If you find that the defendant offered timely explanations of the source of his funds, which were reasonably susceptible of being checked, the government may not disregard them; and you may take into consideration any failure by the government to run down such explanations, if any were made, or the results of any investigation made by the government into the truth of the explanations. On the other hand, where relevant leads are not forthcoming, the government is not required to negate every conceivable source of nontaxable funds, and if the defendant failed to supply information in that regard, you may take such failure into account. The defendant is not required, however, to provide any explanations to prove the source of his net worth, for, as I have said, the burden is on the government to prove that the increases arose from taxable sources.

This instruction is based on the rationale of the courts in the following decisions:

Holland v. United States, 348 U.S. 121 (1954)

Friedberg v. United States, 348 U.S. 142 (1954)

United States v. Calderon, 348 U.S. 160 (1954)

United States v. Massei, 355 U.S. 595 (1957)

United States v. Johnson, 319 U.S. 503 (1942)

United States v. Sorrentino, 726 F.2d 876, 879, 880 (1st Cir. 1984)

United States v. Koskerides, 877 F.2d 1129, 1137 (2d Cir. 1989)

United States v. Breger, 616 F.2d 634, 635 (2d Cir.), *cert. denied*, 446 U.S. 919 (1980)

United States v. Terrell, 754 F.2d 1139, 1144 (5th Cir.), *cert. denied*, 472 U.S. 1029 (1985)

United States v. Schafer, 580 F.2d 774, 775 (5th Cir.), *cert. denied*, 439 U.S. 970 (1978)

United States v. Anderson, 642 F.2d 281, 285 (9th Cir. 1981)

NOTE

1 Where the defendant was married and filed joint returns and the net worth computation reflects a joint net worth, then appropriate language should be used in the instruction. This would also apply where both a husband and wife are charged.

GOVERNMENT PROPOSED JURY INST. NO. 247

The "Net Worth Method" of Determining Income - Explained

To establish a substantial understatement of the tax on the income tax return of the defendant _________ for the year[s] ____, the government has relied upon proof by the so-called "net worth method" of determining income for that particular period. This "net worth method," if used correctly, is an indirect or circumstantial way to reliably determine income.

A person's "net worth" is the difference between that person's total assets and total liabilities on any given day. Said another way, a person's net worth is the difference between what a person owns and what that person owes at any particular time. If a person had more assets at the end of the year than at the beginning of that year, and if that person's liabilities remained the same during that same year, then that person's net worth has increased.

In determining net worth, however, only the cost price of the defendant's assets is to be considered. Mere increases in market value, which have not been actually realized through sale or conversion into cash, must not be taken into account in computing net worth in a case such as this.

If the evidence in the case shows beyond a reasonable doubt that the defendant's net worth, computed in this manner, has increased during the year[s] in question, then the jury may find that the defendant ________ had receipts of either money or property during that year. If the evidence in the case also establishes beyond a reasonable doubt that the defendant had one or more sources of taxable income, and that the receipts just referred to did not come from taxable income, then the jury may find that such receipts constituted taxable income to the defendant during that period.

To show that the defendant's net worth increased in this case, the government has undertaken to prove the defendant's net worth at the beginning of the year 19_, and also attempted to prove the defendant's net worth at the end of that same year. The government also has introduced evidence in an effort to prove that the defendant paid out various amounts of money during the taxable year for such non-deductible items as personal and living expenses.

Because the "net worth method" of determining income involves a comparison of the net worth of the defendant at the beginning and again at the end of the year in question, the result cannot be accepted as correct unless this starting net worth figure, the beginning point, is reasonably accurate. Although the government is not required to prove the exact value of each and every asset owned by the defendant at the starting point, the evidence must establish beyond a reasonable doubt that all assets owned by the defendant at the starting point were not sufficient to account for any subsequent increase in the defendant's net worth. Said another way, the evidence in the case must establish beyond a reasonable doubt that the defendant's assets at the beginning of the year, plus the defendant's reported income for that same taxable year, do not add up to an amount sufficient to account for the increases in net worth, plus non-deductible expenditures during that same year.

The government contends that any increases in the net worth of the defendant _____during the taxable year 19_, plus any non-deductible expenditures by the defendant for that year as shown by the evidence in the case, represent the defendant's true and correct net income for that year. These resulting figures are alleged by the government to be a reasonable approximation of what the defendant ________ should have reported on his [her] income tax return for the calendar year 19_.

The burden is always upon the government to establish beyond a reasonable doubt that any amounts reflected in defendant's increased net worth, plus non-deductible expenditures, were from taxable, rather than non-taxable sources. In this regard, you are instructed that federal income tax is levied on income derived from compensation for personal services of every kind, and in whatever form paid, as well as on income from interest, dividends, gains, profits, and certain other items not pertinent to this case.

The law provides, however, that funds or property received from certain sources do not constitute taxable income. Since no federal income is levied on such funds or property, such funds or property do not need to be reported as income. Non-taxable funds or non-taxable property include such items as gifts, inheritances, the proceeds of life insurance policies, and certain other items not pertinent to this case.

If it appears from the evidence in the case that during the course of the investigation of his [her] income tax return and before the trial of this case, the defendant ________ offered to Treasury agents certain explanations of the sources of certain funds or property and these sources of funds or property were reasonably capable of being checked and verified by Treasury agents, the government may not unreasonably disregard such explanations. In evaluating the evidence in this case you may take into consideration any failure of the government to reasonably investigate the truth of any such explanations as well as the trustworthiness of the explanations provided.

On the other hand, the government is not required, without suggestion or explanation from the defendant ________, to investigate every conceivable source of non-taxable funds. If it appears from the evidence in the case that the defendant did not provide an explanation as to the source or sources of any increase in his [her] net worth, then the jury may consider such failure as one of the circumstances in evidence in the case, bearing in mind always that the law never imposes upon a defendant in a criminal case the burden or duty to offer or produce any evidence. The burden is always upon the government to establish beyond a reasonable doubt from the evidence in the case every essential element of the crime charged, including the claim that any increase in the defendant's net worth was from taxable sources.

If the jury should find that the evidence in the case does not establish the net worth of the defendant to a reasonable degree of certainty at the beginning of the year 19_, then the jury should find the defendant ________ not guilty. If the jury should find that any increase in net worth is not substantially in excess of the income reported by the defendant ________ on his [her] return for 19 , then the jury should find the defendant not guilty.

On the other hand, if the evidence in the case establishes beyond a reasonable doubt the amount of the net worth of the defendant ________ as of the beginning of the calendar year 19_, and further establishes beyond a reasonable doubt that funds reflected in any increased net worth, plus the defendant's expenditures, during the same year substantially exceed the income reported on the defendant's tax return, the jury should then proceed to determine whether the evidence in the case also establishes beyond a reasonable doubt that such additional funds represented taxable income, and then proceed to determine whether the government has proven that the defendant acted willfully in attempting to evade or defeat the additional tax, as charged in Count __ of the indictment.

Devitt, Blackmar, & O'Malley, ***Federal Jury Practice and Instructions - Criminal*** (4th Ed. 1990), § 56.05, pp. 987-990.

GOVERNMENT PROPOSED JURY INST. NO. 251

Income Tax Evasion - Net Worth Method
(26 U.S.C. § 7201)

To prove that additional tax was due, the government must prove beyond a reasonable doubt that:

(a) defendant received income in addition to what was reported, and

(b) that tax was due in addition to what was shown to be due on the income tax return.

In this case, the government has used the so-called net worth method of proof. By using this method the government attempts to prove that the amount the defendant was worth increased during the year by more than the income shown on the defendant's tax return and by the defendant's other nontaxable receipts. I will now explain this to you in more detail.

Net worth is the value of everything the defendant owns -- the defendant's assets -- less the amounts the defendant owes -- the defendant's liabilities. **1** To determine whether the government has proved by the net worth method that the defendant had additional unreported income, you must answer the following five questions:

1. Determine the defendant's net worth on January 1, 19_, that is, when the tax year began, and on December 31, 19_ , when the year ended. How much did the defendant's net worth increase during that year?

2. How much did the defendant spend during that year for personal use and for other things that could not be deducted from defendant's income for tax purposes?

3. Next add the increase in the defendant's net worth and the amount the defendant spent on himself [herself] and for nondeductible purposes. Was the total of these amounts greater than the amount of income reported on the defendant's tax return?

4. Did the defendant have any nontaxable income during the year that would explain the difference, that is, income which the defendant did not have to report on his [her] return, such as gifts or inheritance?

[***5. Did the defendant have business losses or expenses or bad debts that the defendant could have deducted from the defendant's income to reduce the defendant's tax but did not deduct?***] **2**

[***The government has the burden of proving beyond a reasonable doubt that the defendant's net worth increased during the tax year by more than is explained by the defendant's reported income less the defendant's personal, nondeductible spending plus the defendant's other nontaxable sources of income.***] **3** The government does not have to prove exact amounts; it need only prove the amounts with reasonable accuracy. The government also has an obligation to have its revenue agents follow up reasonable leads during their investigation that might explain an apparent increase in net worth, such as sources of other nontaxable income. [***The government must give the defendant credit for amounts that the law entitled the defendant to deduct from the defendant's income to reduce the defendant's tax, but that the defendant failed to deduct.***] **4**

Manual of Model Jury Instructions for the Ninth Circuit (1992 Ed.), § 9.06B

NOTES

1 This sentence should be modified to reflect that the assets are valued *at cost* and that mere unrealized increases in market value are not taken into consideration.

2 This paragraph is not correct, at least in the context in which it appears above. Business losses or expenses or bad debts are all accounted for, and the defendant would be given full credit in a proper net worth computation for all deductions and expenses, whether claimed or not on the defendant's return. In point of fact, if a defendant failed to claim all of his [her] expenses and deductions, then this would result in the reporting of a higher taxable income than would otherwise be reported. Thus, under these circumstances, computed unreported income would be less when reported income is compared with corrected taxable income as computed by the net worth method. It may be that No. 5 in the instruction is meant to explain "below the line" reductions in the total of the net worth increase and non-deductible expenditures but the paragraph is still incorrect -- the reductions, as noted above, do not pertain to reported items. Moreover, business expenses are not a "below the line" adjustment but are automatically accounted for in computing the net worth increase.

3 The first sentence of this paragraph is confusing. It does not conform to the mechanics of a net worth computation which seeks to establish unreported income by demonstrating that the defendant's net worth increase, plus nondeductible expenditures, less reductions (such as nontaxable sources of income) and other adjustments, exceeds reported income.

4 This statement is not correct in the context of a net worth case which automatically accounts for all of the deductible expenses paid for by the defendant. Whether the defendant has or has not claimed all available deductions on his [her] return may have a bearing on willfulness but does not affect the computation of correct taxable income. Note that the defendant's failure to claim all available deductions of this nature results in a smaller understatement, ***i.e.***, his [her] reported income is higher than it would otherwise be.

GOVERNMENT PROPOSED JURY INST. NO. 254

Net Worth Method

In this case the government relies upon the so-called "net worth method" of proving unreported income.

A person's "net worth" at any given date is the difference between his total assets and his total liabilities on that date. It is the difference between what he owns and what he owes (measuring the value of what he owns by its cost rather than unrealized increases in market value).

If the evidence establishes beyond a reasonable doubt that the Defendant's net worth increased during a taxable year, then you may infer that the Defendant had receipts of money or property during that year; and if the evidence also establishes that those receipts cannot be accounted for by non-taxable sources, then you may further infer that those receipts were taxable income to the Defendant.

In addition to the matter of the Defendant's net worth, if the evidence establishes beyond a reasonable doubt that the Defendant spent money during the year on living expenses, taxes and other expenditures, which did not add to his net worth at the end of the year, then you may infer that those expenditures also came from funds received during the year; and, again, if the evidence establishes that those receipts cannot be accounted for by non-taxable sources, then you may further infer that those funds were also taxable income to the Defendant (provided, of course, the expenditures were not for items which would be deductible on the Defendant's tax return).

Because the "net worth method" of proving unreported income involves a comparison of the Defendant's net worth at the beginning of the year and his net worth at the end of the year, the result cannot be accepted as correct unless the starting net worth is reasonably accurate. In that regard the proof need not show the exact value of all the assets owned by the Defendant at the starting point so long as it is established that the assets owned by the defendant at that time were insufficient by themselves to account for the subsequent increases in his net worth. So, if you should decide that the evidence does not establish with reasonable certainty what the defendant's net worth was at the beginning of the year, you should find the defendant not guilty.

In determining whether or not the claimed net worth of the defendant at the starting point (or the beginning of the year) is reasonably accurate, you may consider whether government agents sufficiently investigated all reasonable "leads" suggested to them by the defendant, or which otherwise surfaced during the investigation, concerning the existence and value of other assets. If you should find that the government's investigation has either failed to reasonably pursue, or to refute, plausible explanations advanced by the defendant or which otherwise arose during the investigation concerning other assets the defendant had at the beginning of the year (or other nontaxable sources of income he had during the year), then you should find the defendant not guilty. Notice, however, that this duty to reasonably investigate applies only to suggestions or explanations made by the defendant, or to reasonable leads which otherwise turn up; the government is not required to investigate every conceivable asset or source of non-taxable funds.

If you decide the evidence in the case establishes beyond a reasonable doubt the maximum possible amount of the defendant's net worth at the beginning of the tax year, and further establishes that any increase in his net worth at the end of that year, together with this [***sic, his***] nondeductible expenditures made during the year, did substantially exceed the amount of income reported on the defendant's tax return for that year, you should then proceed to decide whether the evidence also establishes beyond a reasonable doubt that such additional funds represented taxable income (that is, income from taxable sources) on which the defendant willfully attempted to evade and defeat the tax as charged in the indictment.

Pattern Jury Instructions, Criminal Cases, Eleventh Circuit (1985 Ed.), Offense Instructions, Instruction No. 69.2, pp. 231-233.

GOVERNMENT PROPOSED JURY INST. NO. 256

Net Worth Method

To prove that substantial additional tax was due, the government must prove beyond a reasonable doubt that (a) the defendant received substantial income in addition to what he reported on his income tax return, and (b) there was tax due in addition to what was shown to be due on the return.

In order to prove that the defendant received substantial additional income omitted from his tax return, the government in this case has used the so-called net worth method of proof. By using this method the government attempts to prove that the amount the defendant was worth increased during the year by more than the income shown on the his tax return and by his other nontaxable receipts. Let me explain this in more detail.

Net worth is the value of everything the defendant owns -- his assets -- less the amounts he owes -- his liabilities. **1** To determine whether the government has proved by the net worth method that the defendant had additional unreported income, you must answer the following five questions:

1. Determine the defendant's net worth on January 1, 19_, that is, when the tax year you are considering began, and on December 31, 19_, when the year ended. How much did the defendant's net worth increase during that year?

2. How much did the defendant spend during that year for personal use and for other things that could not be deducted from his income for tax purposes?

3. Next add the increase in his net worth and the amount the he spent on himself and for nondeductible purposes. Was the total of these amounts greater than the amount of income reported on his tax return? If the answer to this question is "yes," you must then consider the following questions.

4. Did the defendant have any nontaxable income during the year that would explain the difference, that is, income which he did not have to report on his return, such as gifts or inheritances?

[***5. Did the defendant have business losses or expenses or bad debts that he could have deducted from his income to reduce his tax but did not deduct?***] **2**

[***The government has the burden of proving beyond a reasonable doubt that the defendant's net worth increased during the tax year by more than is explained by his reported income less his personal, nondeductible spending plus his other nontaxable sources of income.***] **3** The government does not have to prove exact amounts; it need only prove the amounts with reasonable accuracy. The government also has an obligation to have its revenue agents follow up reasonable leads during their investigation that might explain an apparent increase in net worth, such as sources of other nontaxable income. [***And the government must give the defendant credit for amounts that the law entitled the defendant to deduct from his income to reduce his tax, but that he failed to deduct.***] **4**

If you find, based on all the evidence, that the government has established beyond a reasonable doubt that the defendant received substantial income in addition to what he reported on his income tax return for the year in question, you must decide whether there was tax due in addition to what was shown to be due on the return, as a result of defendant's additional, unreported income. In reaching your decision on this issue, you should consider, along with all the other evidence, the expert testimony introduced during the trial concerning the computation of the defendant's additional tax liability, when the alleged additional income was taken into account.

If you find, based on all the evidence, that the government has established beyond a reasonable doubt that the defendant received substantial additional income, and that there was tax due in addition to what was shown to be due on his income tax return, as a result of this additional income, then this first element has been satisfied.

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2 L. Sand, *et al.*, ***Modern Federal Jury Instructions***, (1993 Ed.), Instruction 59-6

NOTES

1 This sentence should be modified to reflect that the assets are valued ***at cost*** and that mere unrealized increases in market value are not taken into consideration.

2 This paragraph is not correct, at least in the context in which it appears above. Business losses or expenses or bad debts are all accounted for, and the defendant would be given full credit in a proper net worth computation for all deductions and expenses, whether claimed or not on the defendant's return. In point of fact, if a defendant failed to claim all of his [her] expenses and deductions, then this would result in the reporting of a higher taxable income than would otherwise be reported. Thus, under these circumstances, computed unreported income would be less when reported income is compared with corrected taxable income as computed by the net worth method. It may be that No. 5 in the instruction is meant to explain "below the line" reductions in the total of the net worth increase and non-deductible expenditures but the paragraph is still incorrect -- the reductions, as noted above, do not pertain to reported items. Moreover, business expenses are not a "below the line" adjustment but are automatically accounted for in computing the net worth increase.

3 The first sentence of this paragraph is confusing. It does not conform to the mechanics of a net worth computation which seeks to establish unreported income by demonstrating that the defendant's net worth increase, plus nondeductible expenditures, less reductions (such as nontaxable sources of income) and other adjustments, exceeds reported income.

4 This statement is not correct in the context of a net worth case which automatically accounts for all of the deductible expenses paid for by the defendant. Whether the defendant has or has not claimed all available deductions on his [her] return may have a bearing on willfulness but does not affect the computation of correct taxable income. Note that the defendant's failure to claim all available deductions of this nature results in a smaller understatement, ***i.e.***, his [her] reported income is higher than it would otherwise be.